

UNITED STATES DISTRICT COURT
For the District of Massachusetts

C.A. No. 03-12502 NMG

HARTFORD FIRE INSURANCE)
COMPANY,)
Plaintiff,)
VS.)
EASTERN CONTRACTORS, INC.)
Defendant/Third-Party)
Plaintiff)
VS.)
CITY OF LAWRENCE, CITY OF FALL)
RIVER AND FREETOWN/LAKEVILLE)
REGIONAL SCHOOL DISTRICT)
Third-Party Defendants.)

)

THIRD PARTY DEFENDANT CITY OF FALL RIVER'S MOTION TO STAY
LITIGATION AND COMPEL DEFENDANT/THIRD PARTY PLAINTIFF EASTERN
CONTRACTORS, INC. TO ARBITRATE PURSUANT TO MASS. GEN. LAW
CHAPTER 251, SECTION 2

Third Party Defendant the City of Fall River ("Fall River") hereby moves pursuant to MGLA chapter 251, section 2 for an order staying the litigation brought against it by the Defendant/Third Party Plaintiff Eastern Contractors, Inc. ("Eastern"), and directing Eastern to arbitrate this dispute before the American Arbitration Association. The written agreement between Fall River and Eastern requires that "any

controversy or Claim arising out of or related to the Contract, or breach thereof, shall be settled by arbitration...”

Massachusetts General Laws Chapter 251, section 1 states that a written agreement to submit a controversy to arbitration “shall be valid, enforceable and irrevocable.” Sections 2(a) and 2(d) of Chapter 251 provide that upon application to the court, if the court finds that an agreement to arbitrate exists, the court shall order the parties to proceed to arbitration and shall order the stay of the action or proceeding involving an issue subject to arbitration. MGLA c. 251, sec. 2(a) and 2(d).

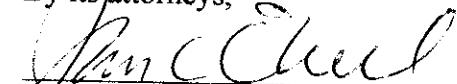
Additionally, the court Stearns, J., has previously allowed the Third Party Defendant Freetown/Lakeville Regional School District’s (“District”) Motion to Stay Litigation and Compel Eastern to Arbitrate. Fall River states that it holds the same position as the District. Therefore, Fall River is entitled to an order directing Eastern and Fall River to arbitrate this dispute and staying Eastern’s action against Fall River.

In further support of this Motion, Fall River submits a memorandum of law and the Affidavit of Terrance Sullivan with exhibits.

REQUEST FOR HEARING

Fall River requests oral argument on this Motion.

Respectfully submitted
City of Fall River
By its attorneys,


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